THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

+Writ Petition No.10784 of 2007

% 09.07.2007

Between:

Fishermen Co. operative Society,
Miryalaguda

…Petitioner

And

Commissioner of Fisheries, Hyderabad and others

…Respondents

! COUNSEL FOR Petitioner: Sri M. Vidyavathi,

^ COUNSEL FOR RESPONDENT: G.P for Fisheries, for R-1 to R-3
Sri T.V. Thippa Reddy, for R4 & R5

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> Head Note:

? CITATIONS:

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ORDER:

The petitioner challenges the proceedings dated 30-04-2007 and 11-05-2007, issued by the Deputy Director of Fisheries,

the 2nd respondent herein.

The term of the Managing Committee of the petitioner society expired on 13-07-2004. Thereafter, Person-in-charge committee was appointed. The Person-in-charge, in turn, conducted elections on 25-02-2005, wherein the Managing Committee was elected. The charge is said to have been handed over to the Committee. The Committee so elected, was administering the society, ever since then.

Some of the members of the Society filed a representation before the 2nd respondent with certain allegations. Based upon the same, the 2nd respondent issued a notice dated 30-04-2007, directing the President of the Society, to appear before him,

on 09-05-2007, with the relevant records. It was pointed out that the allegations as to irregularities, in distribution of the sale proceeds, utilization of the amount by the President of the Society; are made in the representation, received, by some of the members. This was followed by a notice dated 11-05-2007. In this, the 2nd respondent stated that the election of the President of the Society, which took place through direct process, is contrary to law, and though the President was required to submit his explanation, nothing was forthcoming. The 2nd respondent further required the President of the

Society, to explain, within one week, as to why the steps should not be taken, to get the President elected, through indirect process. He has threatened the existing President with action, in case no explanation is received.

Petitioner contends that the elections to the Managing Committee were conducted, way back in the year 2005, duly following the procedure, and that the 2nd respondent is not conferred with any power, or jurisdiction, to resolve the disputes, if any. He submits that, even if there existed any procedural irregularities, it was for the effected parties, to approach the Tribunal, and the impugned notices do not accord with law.

The petitioner alleges arbitrariness and vindictiveness against the 2nd respondent.

The respondents 4 and 5 got impleaded. In their counter affidavit, respondents 4 and 5 state that Section 31(5) of the A.P. Co-operative Societies Act (for short '*the Act*') and Rule 22 (4) (b) of the Rules, made thereunder, were amended, providing for indirect election of the President, and since the President of the petitioner-society was elected through direct method, it cannot be sustained in law. It is pleaded that the effort of the 2nd respondent, through impugned notices, is only to ensure, that the provisions of law are complied with.

Heard the learned counsel for the petitioner; learned Government Pleader for Fisheries, appearing for respondents 1 to 3, and learned counsel for respondents 4 and 5.

The 2nd respondent was not certain, as to the nature of action he proposed. In the first notice dated 30-04-2007, he required the President of the Society to appear before him, to answer certain allegations, relating to the management of the society. He did not

mention as to the provision, under which he proposed that action. This was followed by the second notice dated 11-05-2007.

The ground, mentioned in this, is, totally different. According to him, the President of the society was elected through direct process, contrary to the relevant provisions, and proposed further action thereon.

It is true that the provisions, referred to above, were amended, providing for direct election of the President. However, there was some uncertainty as to the date of publication, and the date of issuance. The record discloses that the Authority, who conducted the elections, to the petitioner-society, in February 2005; was not aware of the amendment, and he proceeded to conduct the election, through direct process. It was only two years subsequent to the election, that the 2nd respondent raised that ground.

Even assuming that the election of the President of the Society took place through direct means, it is not revealed as to what prejudice, any individual, or the Government; had suffered. Normally, there can be grievance, if only the requirement was to conduct elections through direct means, and it was held, by adopting an indirect process. At any rate, the alleged irregularity constituted the basis, or cause of action, for challenging the election, *that too*, by an aggrieved party. The resolution of the disputes, relating to elections, is entrusted to a totally different agency, under the Act. The 2nd respondent is not conferred with any power, in this regard. At any rate, the 2nd respondent, himself, did not indicate the provision, under which he initiated the proposed action.

Viewed from any angle, the impugned proceedings cannot be sustained in law. Hence, the writ petition is allowed, and the

impugned proceedings are set aside. There shall be no order as to costs.

L. NARASIMHA REDDY, J.

Dt.09-07-2007

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